

Amendment No. 1 to SB0902

McNally
Signature of Sponsor

AMEND Senate Bill No. 902*

House Bill No. 1006

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, is amended by adding the following new part 35:

56-7-3501. This part shall be known and may be cited as the “Cancer Patient Choice Act.”

56-7-3502. As used in this part:

(1) “Aggregate amount” means the total amount paid by a commercial insurer for a biological effective dose;

(2) “Biological effective dose” means the total, prescribed radiation dose delivered in a course of radiation therapy treatments to induce tumor cell death;

(3) “Commercial insurance” includes:

(A) Any individual or group health insurance policy providing coverage on an expense-incurred basis;

(B) Any individual or group service contract issued by a hospital or medical service corporation;

(C) Any individual or group service contract issued by a health maintenance organization;

(D) Any self-insured group arrangement, to the extent not preempted by federal law, which is delivered, issued for delivery, or renewed in this state on or after July 1, 2015; and

Amendment No. 1 to SB0902

McNally
Signature of Sponsor

AMEND Senate Bill No. 902*

House Bill No. 1006

(E) Any existing health insurance policy, health plan, group arrangement, or contract;

(4) "CPT code" means the unique numerical designations established by the American Medical Association for various medical, surgical, and diagnostic services used in billing healthcare services;

(5) "Eligible adult patient" means a patient who is eighteen (18) years of age or older and who is prescribed proton therapy for the treatment of cancer in place of IMRT;

(6) "Hypofractionated proton therapy protocol" means a cancer treatment protocol that involves the delivery of fewer, larger treatment doses with proton therapy to achieve the same biological effective dose and curative effect as x-ray radiation therapy where the biological effective dose is delivered in smaller treatment doses over an extended period of time;

(7) "IMRT" means intensity modulated radiation therapy, a type of conformal radiation therapy that delivers x-ray radiation beams of different intensities from many angles for the treatment of tumors;

(8) "Proton therapy" means the advanced form of radiation therapy that utilizes protons as an alternative radiation delivery method for the treatment of tumors;

(9) "Provider" includes any healthcare provider that provides proton therapy treatment to an eligible adult patient under a hypofractionated proton therapy protocol;

(10) “Radiation therapy” is the delivery of a biological effective dose with proton therapy, IMRT, brachytherapy, stereotactic body radiation therapy, three-dimensional (3D) conformal radiation therapy, or other forms of therapy using radiation; and

(11) “Treatment dose” is the amount of radiation delivered in a single treatment or fraction of radiation therapy.

56-7-3503.

(a) In order to afford an eligible adult patient the right to choose the radiation therapy delivery method that the patient’s physician determines will result in the best clinical outcome, establish parity among the various methods of delivering radiation therapy, and further research and facilitate the accumulation of proton treatment data, all commercial insurance that covers IMRT for the delivery of a biological effective dose for a particular indication shall cover the delivery of the same biological effective dose for the same indication with physician-prescribed, hypofractionated proton therapy on the same basis, and commercial insurers shall reimburse to the provider the same aggregate amount if the patient is treated as part of a clinical trial or registry, and the total cost for the course of hypofractionated proton therapy treatment is no greater than the total cost of a standard course of IMRT treatment for the same indication.

(b) The appropriate course of IMRT treatment and, where appropriate, the alternative hypofractionated proton therapy treatment to deliver the same biological effective dose shall be determined and prescribed by the patient’s treating radiation oncologist who shall be board-certified or board-eligible in the specialty of radiation oncology. A hypofractionated proton therapy protocol for breast cancer consisting of twenty (20) treatments delivers the same biological dose as thirty-three (33) treatments under the standard IMRT treatment protocol.

(c)

(1) For purposes of calculating the aggregate amount, the cost of delivering a biological effective dose with IMRT shall be calculated by multiplying the cost per treatment dose by the number of treatments required to deliver the prescribed biological effective dose for the particular indication.

(2) The IMRT cost per treatment dose for purposes of performing the calculation in subdivision (c)(1) shall be the usual and customary amount as agreed upon by the provider and the respective commercial insurers for the applicable CPT codes.

(3) If the provider and a commercial insurer cannot agree on a cost per dose for IMRT for purposes of performing the calculation in subdivision (c)(1), the commercial insurer's weighted average payment for the relevant CPT codes, as established by a third party mutually acceptable to the provider and the commercial insurer, shall be used to establish the usual and customary amount for the applicable IMRT CPT codes.

(4) If the provider and the insurer cannot agree on a mutually acceptable third party to establish the cost per IMRT treatment dose, the amounts contained in the healthcare bluebook shall be used.

(d) For purposes of this part, the amount that shall be reimbursed by commercial insurers per treatment dose for hypofractionated proton therapy shall be calculated by dividing the aggregate amount by the number of treatment doses in the hypofractionated proton therapy protocol.

(e) The benefits required by this part shall be subject to the annual deductible and co-insurance established for radiation therapy and other similar benefits within the commercial insurance policy or contract of insurance. However, the annual deductible and co-insurance for any radiation therapy delivery method permitted by this section

shall be no greater than the annual deductible and co-insurance established for all other similar benefits within that commercial insurance policy or contract of insurance.

56-7-3504.

(a) This part shall not apply to insurance coverage providing benefits for the following:

- (1) Hospital confinement indemnity;
- (2) Disability income;
- (3) Accident-only;
- (4) Long-term care;
- (5) Limited benefit health;
- (6) Specific disease indemnity;
- (7) Sickness or bodily injury or death by accident; or
- (8) Other limited benefit policies.

(b) This part shall not apply to:

- (1) TennCare or any successor program provided for in title 71, chapter 5; and
- (2) State, local education, or local government health coverage through the state group insurance program.

SECTION 2. This act shall take effect July 1, 2015, the public welfare requiring it, and shall apply to any policy or contract entered into or renewed on or after that date.